APPEAL NO. 022036
FILED OCTOBER 3, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq*. (1989 Act). A contested case hearing (CCH) was held on July 3, 2002. The hearing officer determined that the appellant (claimant herein) did not suffer a compensable injury on _____, and, consequently, did not have disability.[1] The claimant appeals, contending that the evidence did not support the decision of the hearing officer and that the hearing officer erred by denying the claimant's request to add an issue as to whether the respondent (self-insured) waived its right to dispute compensability by not timely disputing it. The self-insured responds that there is sufficient evidence to support the hearing officer's findings and that the hearing officer did not abuse her discretion by refusing to add an issue as to carrier waiver.

DECISION

Finding sufficient evidence to support the decision of the hearing officer and no reversible error in the record, we affirm the decision and order of the hearing officer.

We first address the issue of whether the hearing officer erred in refusing to add an issue as to carrier wavier. The claimant argues that Texas Workers' Compensation Advisory 2002-08 date June 17, 2002, permitted him to raise the issue of carrier waiver. The self-insured responds that language in Advisory 2002-08 permitting the parties to raise the issue of carrier waiver and the application of Texas Supreme Court decision in Continental Casualty Company v. Downs, Case No. 00-1309, decided June 6, 2002, did not intend to contravene the requirements of Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 142.7 (Rule 142.7(e)) regarding adding issues at a CCH that were not raised at the benefit review conference (BRC). Here it undisputed that the issue of carrier waiver was not raised at the BRC. Nor were the requirements of Rule 142.7 met for adding the issue at the CCH. We therefore find no error in the hearing officer not adding the issue at the CCH. *See* Texas Workers' Compensation Commission Appeal No. 022044, decided September 24, 2002.

The hearing officer did not err in determining that the claimant did not sustain a compensable injury on or about _____, and did not have disability. The injury and disability determinations involved questions of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence, including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). In view of the evidence presented, we cannot conclude that the hearing

[1] At the same CCH, the hearing officer also heard evidence concerning another claim, which we addressed in our decision in Texas Workers Compensation Appeal No. 022035, decided September 27, 2002.

officer's injury determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986). Because the claimant did not sustain a compensable injury, the hearing officer properly concluded that the claimant did not have disability. Section 401.011(16).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **(a certified self-insured)** and the name and address of its registered agent for service of process is:

MS. FRANCES MILLICAN
CRAWFORD & COMPANY
505 EAST HUNTLAND DRIVE, SUITE 100
AUSTIN, TEXAS 78761.

_____
Gary L. Kilgore
Appeals Judge

CONCUR:

_____
Elaine M. Chaney
Appeals Judge

_____
Margaret L. Turner
Appeals Judge